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February 24, 1984

Mr. George T. Gilman, Commissioner
Department of Resources and
Economic Development
105 Loudon Road
Concord, New Hampshire 03301

Dear Commissioner Gilman:

By letter dated November 14, 1983, you requested our opinion as to the propriety of DRED's agreement with Computer Emporium, Inc. for the collection of parking fines, especially in light of the Comptroller's opinion that the agreement was in violation of RSA 6:11. In our opinion, the contract you propose would be authorized provided that the amount of compensation to the contractor is provided in DRED's budget.

RSA 6:11 requires that

"All state departments ... receiving money for the state from sources outside the state treasury shall pay the full amount of all said moneys intact into the state treasury weekly. ..."

This office has interpreted this to mean that gross receipts must be deposited with the state treasury weekly and that all disbursements, including refunds, must be made by the State Treasurer. 1 N.H.Op.A.G. 68.

The agreement at issue would require DRED to repay Computer Emporium 27.5 percent of all monies received in return for the

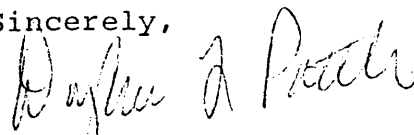


services provided by the agency in collecting parking fines. See Exhibit B to the agreement. This agreement would be in violation of RSA 6:11 if that percentage were deducted from the amount received and paid to the ticket collection agency before the gross receipts were deposited with the State Treasurer. However, if the compensation of the contractor were computed on the basis of the receipts and the payment made after all receipts were deposited, we see no basis to conclude that the agreement would violate RSA 6:11, provided DRED has funds in its operating budget and it receives the requisite approval of the Governor and Council. The latter requirement exists by virtue of RSA 4:15 and the Manual of Procedure of the Department of Administrative Services, pages 120.1-120.1a. The former is required because the parking fine receipts are required to be deposited as general fund revenues and, unless expressly provided by the legislature, cannot be used to augment DRED's budget. N.H.Const. Pt. II, Art. 56; RSA 9:18.

RSA 218:5, I gives the Director of the Division of Parks, with the approval of the Governor and Council, under the supervision of the Commissioner of DRED, the authority to "execute all matters pertaining to the design, development, administration, operation, and maintenance of recreational facilities and services for public use, on all state public areas of recreational significance such as state parks, forests, reservations and historic sites" Entering into a contract for the purpose of collecting parking fines would clearly fall within the authority granted by RSA 218:5, I. Thus, provided that the proposed contract receives Governor and Council approval, and the amount of compensation is provided for in DRED's budget, we see no problem in the proposed arrangement.

We trust this has been responsive to your inquiry. Please let us know if you require anything further.

Sincerely,



Douglas L. Patch
Assistant Attorney General
Division of Legal Counsel

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